

Members

Sen. Brent Steele, Chairperson  
Sen. Richard Bray  
Sen. Lindel Hume  
Sen. James Arnold  
Rep. Linda Lawson  
Rep. Sheila Klinker  
Rep. Ralph Foley  
Rep. Bruce Borders  
Ed G. Buss  
Steve Johnson  
Hon. Randall T. Shepard  
Larry Landis  
Neil Moore  
R. Todd McCormack  
Sheila Hudson  
Hon. Frances Gull  
Hon. James Humphrey  
Hon. Roger Duvall  
Hon. Lynn Murray  
Dr. Stephen Ross



## SENTENCING POLICY STUDY COMMITTEE

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Mark Goodpaster, Fiscal Analyst for the  
Committee

Authority: P.L. 216-2007

### MEETING MINUTES<sup>1</sup>

Meeting Date: October 29, 2009  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington St.,  
Room 431  
Meeting City: Indianapolis, Indiana  
Meeting Number: 4

**Members Present:** Sen. Brent Steele, Chairperson; Sen. Richard Bray; Sen. Lindel Hume; Sen. James Arnold; Rep. Sheila Klinker; Rep. Ralph Foley; Rep. Bruce Borders; Ed G. Buss; Steve Johnson; Hon. Randall T. Shepard; Larry Landis; Neil Moore; R. Todd McCormack; Hon. Frances Gull; Hon. James Humphrey; Hon. Roger Duvall; Hon. Lynn Murray; Dr. Stephen Ross.

**Members Absent:** Rep. Linda Lawson; Sheila Hudson.

Senator Steele called the meeting to order at 10:21 am. He noted that this was the last meeting of the Sentencing Policy Study Committee for 2009. He then introduced Mr. Ed Buss of the Department of Correction (DOC) and Mr. Greg Server of the Parole Board to speak about parole issues.

Mr. Buss, Commissioner of the DOC, distributed a handout (Exhibit A) that outlined changes that will improve how Indiana supervises offenders on parole. The handout included Public Safety Policy Brief titles "Putting Public Safety First, 13 Strategies for Successful Supervision and Reentry" from the Pew Center for the States. This brief contained 13 strategies to improve

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be obtained electronically by requesting copies at [licrequests@iga.in.gov](mailto:licrequests@iga.in.gov). Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

the parole system. Mr. Buss told the committee members that because the number of offenders on parole increased from 5,000 to 11,000 between 2001 and 2009, DOC must find ways to more efficiently supervise these offenders. He stated that not all violations of parole agreements should result in revocation of parole which would send these offenders back to DOC facilities. He proposed a third option other than parole and revocation. He suggested that a good time credit could be given to those who do not violate their parole agreements instead of only punishing those who do violate.

Mr. Server, Chairman of the Parole Board, proposed two measures to reduce parole costs. First, he proposed shortening the parole period to one year for certain offenders. He said that offenders with the propensity to commit new crimes while on parole commit them during the first year of parole. He said that violations in the second year are usually due to complacency and do not always require that parole be revoked. As an example, he noted that in the second year of parole, parolees will more often be cited for technical violations of the rules, such as having beer in their refrigerator. Mr. Server assured the members that the supervisory period for sex offenders, which is either 10 years or lifetime, would remain unchanged.

Second, under IC 11-13-9-4, staff to the parole board must prepare a community investigation report before an offender can be discharged on parole. Mr. Server suggested that a community investigation report for determining the parole of long-term inmates should be at the parole board's discretion. This is because a mandatory investigation is not always necessary since the offender has been away from the community for so long and because staff can be better used for other tasks. Senator Bray noted that the parole board would have other reports about the crime from the offender's file.

Senator Steele asked Mr. Buss to estimate how much money could be saved by reducing the amount of time of parole and reducing the number of revocations. Mr. Buss believes that DOC could save between 100 – 200 beds a year, which could save at a minimum \$2 million. Senator Steele asked if sending more people to community corrections or to local parole would be a good solution. That could be an intermediate option, but it is already an option.

Counsel explained PD 3297, which includes the proposals of a discretionary community investigation, reducing parole to one year for offenders other than sex offenders, and making the acceptance of supplemental victim reports and statements by the parole board.

The committee discussed the possibility of adding a provision for a "credit time" like system and whether it is necessary to remove the "not more than 24 months" parole time.

Counsel explained that PD 3296 addresses only the issues of the community investigation and the supplemental reports. The committee suggested that the draft be amended to include a good conduct "earned parole time."

Rep. Foley moved that the committee accept PD 3296 with the amendment. The committee approved PD 3296 by a voice vote.

Senator Steele called on Andrew Hedges to present several bills that were brought before the committee by Senator Head at the 10/1/09 meeting. Mr. Hedges provided a brief description of each bill and the committee voted as follows by roll call.

Document	Synopsis	Vote
SB 277-09	This bill makes nonsupport of a child a Class B felony if the person owes at least \$15,000 in unpaid support and has a prior unrelated conviction for nonsupport of a child as a Class C felony.	11-5
PD 3143	This bill permits amending an indictment or information to include a habitual offender charge at any time before trial if the amendment does not affect a particular defense or change the positions of either of the parties.	15-1
PD 3142	This bill makes child solicitation committed by a person at least 21 years of age against a child under 14 years of age a Class C felony if the person performs an overt act demonstrating an intent to physically meet the child. It enhances the penalty to a Class B felony if it is committed by means of a computer network, and to a Class A felony if it is committed by means of a computer network by a person who has a prior conviction for child solicitation by means of a computer network.	13-3
SB 272-09	This bill makes interference with custody a Class D felony (instead of a Class C misdemeanor) if the interference with custody lasts more than 180 continuous days.	11-5

Senator Steele called upon representatives of the Indiana Sheriffs' Association to give a presentation on a new software program for the sex offender registry.

Detective Jeff Shimkus of the Allen County Sheriff's Department gave a PowerPoint presentation on the OffenderWatch program that is currently used to track sex offenders in Allen County. The Sheriffs' Association would like to replace the current computer system with the OffenderWatch system and suggested adding probation fees to defray the cost.

Senator Hume questioned Detective Shimkus on the ability of this new system to help the state comply with the recent Wallace decision by the Indiana Supreme Court and the ability for those searching the registry to determine if the offender that shows up is truly dangerous. Detective Shimkus stated that the advanced search features in the system allow for law enforcement to search for names that would have to be removed in order to comply with Wallace. The system shows what crime an individual is convicted of, but cannot determine how great a threat that person is to the community. If an individual is interested, they could get the court files from the county clerk's office. The detective believes that in the mind of the public, a sex offender is a sex offender.

Mr. McCormack questioned why the system would be paid for with probation fees. He felt that it was unfair for those who are convicted of other crimes to pay for a system for sex offenders. Detective Shimkus stated that this is the way that Louisiana pays for their system, but that Ohio pays for it out of a dedicated appropriation. Mike Cormaci, the President of Watch Systems which developed the OffenderWatch software, explained the success that they are having with the system and that many people receive email updates on the presence of sex offenders in their area.

The committee discussed the importance in finding a funding mechanism for the project and the need to integrate the system into the other systems that are used by the criminal justice system. Rep. Klinker suggested a fee for drunk drivers or an alcohol tax. Detective Shimkus noted that Allen County pays for its system from profits from the commissary in the jail, but that smaller counties may have trouble getting enough funding from that source.

Senator Steele introduced the issue of a legislative oversight board for the computer systems used in the criminal justice field. He passed out a handout on the subject. (Exhibit B)

Ms. Peggy Mayfield, the Morgan County Clerk, and Ms. Bev Elliott, the LaGrange County Clerk, spoke about their experiences in maintaining court records. They noted that they are not satisfied with the Odyssey system and that it is only used in 39 of 400 courts and 13 of 92 counties. Both Morgan and LaGrange Counties use other computer systems and they are satisfied with those systems. They noted that they would like to interface with Odyssey. These counties pay fees to the state for Odyssey even though they do not use it. Also, the system that they use has features that are not available in the Odyssey system.

Mr. Kevin Cook of CSI Computer Systems Inc. and Mr. Nick Bankhauser of Doxpop spoke about the advantages of using third-party record management systems. The system that CSI has in many counties in the state is less costly than the implementation of Odyssey has been thus far. Responding to questioning from Senator Steele, Mr. Cook said that CSI must remain competitive in the marketplace, and that forces his company to offer services at a low price. He noted that it costs under \$100,000 to implement his system in most counties and that for all of his counties his total yearly maintenance charges are approximately \$700,000.

Ms. Mary DePrez, the Director and Counsel of Trial Court Technology, explained that many of the cost estimates that are used for the Odyssey system are larger than the actual costs. She shared the advantages of Odyssey and noted the value of having one statewide system to manage court records.

The committee discussed the merits of Odyssey and the accomplishments of JTAC. Senator Steele outlined the composition of the commission that he suggested in Exhibit B. This proposal would create the Judicial Computer Systems Commission to evaluate court computer systems and the judicial technology and automation project. On voice vote, the committee members added the executive director of the Public Defenders Council and a representative from the DOC to this proposed commission.

The PD was moved and passed by a roll call vote of 10-6.

Mr. Hedges gave an overview of PD 3293. This draft would require the Department of Correction to maintain information concerning offenders who are persons with developmental disabilities, and would not permit an offender to be assigned to a lower credit class for the violation of a rule if the violation of the rule is attributable to the fact that the offender is a person with a developmental disability. It also would require a probation officer to include in an offender's pre-sentence investigation report whether the person being sentenced is a person with a developmental disability. It would also require a court to consider a person's status as a person with a developmental disability in determining whether the person has properly waived the person's rights when pleading guilty.

During committee discussion, Senator Steele asked the judges on the committee if they found this proposal would be helpful. The judges responded that it increased the number of legal procedures they would have to follow, but that they always ensure that anyone who is pleading guilty in their court understands what it means, regardless. Mr. McCormack and Dr. Ross expressed concerns about the need for probation departments to evaluate if an individual has a developmental disability. They noted that the departments do not have the personnel to do such evaluations. Mr. Koester noted that DOC does not currently assess the IQ of each new offender. The committee agreed that they are interested in the state developing a strategy for dealing with the developmentally disabled in the criminal justice system.

Senator Steele presented PD 3302 which continues the work of the Sentencing Policy Study Committee next year. The PD was adopted by consent.

Senator Steele adjourned the committee at 2:09 pm.

Exhibit B

Creates the judicial computer systems commission to evaluate court computer systems and the judicial technology and automation project.

SECTION 1. IC 33-45 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

**ARTICLE 45. JUDICIAL COMMISSIONS**

**Chapter 1. Judicial Computer Systems Commission**

**Sec. 1. The judicial computer systems commission is established to evaluate and analyze the computer systems used by courts in Indiana.**

**Sec. 2. (a) The commission shall:**

- (1) evaluate the computer systems used by different courts in Indiana;**
- (2) evaluate the judicial technology and automation project; and**
- (3) evaluate computer software and hardware for court computer systems and the judicial technology and automation project.**

**(b) The commission may study other topics as assigned by the legislative council or as directed by its chairperson.**

**Sec. 3. The commission shall file a report with the:**

- (1) governor;**
- (2) legislative council; and**
- (3) chief justice of the supreme court;**

**before November 1 of each year. The report filed with the legislative council must be in an electronic format under IC 5-14-6.**

**Sec. 4. The report filed under section 3 must include the following information:**

- (1) A description of the computer systems used by Indiana courts.**
- (2) A fiscal analysis of computer related expenses by Indiana courts for the prior fiscal year.**
- (3) A fiscal analysis of the judicial technology and automation project's expenditures for the prior fiscal year.**
- (4) The progress of the judicial technology and automation project.**
- (5) Recommendations concerning cost effective and efficient computer hardware and software for Indiana courts.**

**Sec. 5. (a) The commission consists of eighteen (18) members appointed as follows:**

- (1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, appointed by the president pro tempore of the senate.**
- (2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, appointed by the speaker of the house of representatives.**
- (3) One (1) judge appointed by the president pro tempore of the senate.**
- (4) One (1) judge appointed by the speaker of the house of representatives.**
- (5) One (1) sheriff appointed by the president pro tempore of the senate.**
- (6) One (1) sheriff appointed by the speaker of the house of representatives.**
- (7) One (1) county clerk appointed by the president pro tempore of the senate.**
- (8) One (1) county clerk appointed by the speaker of the house of representatives.**
- (9) The executive director of the prosecuting attorneys council of Indiana.**

**(10) One (1) prosecuting attorney appointed by the executive director of the prosecuting attorneys council of Indiana.**

**(11) One (1) attorney appointed by the president pro tempore of the senate.**

**(12) One (1) attorney appointed by the speaker of the house of representatives.**

**(b) The chairman of the legislative council shall appoint a member of the commission to serve as chairperson. Whenever there is a new chairman of the legislative council, the new chairman may remove the chairperson of the commission and appoint another chairperson.**

**(c) If a legislative member of the commission ceases being a member of the chamber from which the member was appointed, the member also ceases to be a member of the commission.**

**(d) A legislative member of the commission may be removed at any time by the appointing authority who appointed the legislative member.**

**(e) If a vacancy exists on the commission, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy.**

**Sec. 6. The commission may employ consultants to assist it with its study.**

**Sec. 7. Each member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.**

**Sec. 8. The legislative services agency shall staff the commission**